IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 32625 of 1998

Between:

Francis Dass, S/o. Arokia Dass
H.No.10-1-224/1, Ist floor, Chinthal Basthi,
Khairathabad, Hyderabad.

..... PETITIONER

AND

1 The State of A.P., Rep. by it's Secretary,
Higher Education Department , Secretariat Buildings ,
Hyderabad.
2 The Commissioner of Collegiate Education,
Nampally, Hyderabad.
3 The Regional Joint Director, Higher Education Zone VII,
Hyderabad.
4 The Correspondent, St.Francis College for Women,
Begumpet, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a order or direction more particularly one in the nature of Writ of Mandamus to declaring the order passed by the respondent No.4 dated 18.9.1997 and consequently the orders passed by the respondent No.3. in his proceedings L.D. in No.2590/pc.iII.2/97 dt.20.10.1997 and the order passed by the respondent No.1 vide his proceedings Memo.No.38084/C.E.II.2/97-4, dt.8.9.1998 as illegal, arbitrary, unconstitutional and against the principles of natural justice consequently direct the respondents to reinstate the petitioner in service as a Lab. Attender in respondent No.4. college with all consequential benefits from the date of the petitioner termination.

Counsel for the Petitioner: MR.K.V.SUBBA REDDY

Counsel for the Respondent Nos.1 to 3: G.P. for Higher Education

Counsel for the Respondent No.4: MR.K.NARASIMHACHARI

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the order, dated 18.9.1997 passed by the 4th respondent, and consequential Proceedings L.Dis.No.2590/PC.III.2/97, dated 20.10.1997 issued by the 3rd respondent and also the Proceedings Memo No.38084/C.E.II.2/97-4, dated 8.9.1998 issued by the 1st respondent as arbitrary and illegal and consequently direct the respondents to reinstate the petitioner into service as Lab Attendant in the 4th respondent-college.

It is the case of the petitioner that he was appointed as Lab Attendant in 1984 against an aided post in the 4th respondent-college. While so, he suffered from severe back pain in June, 1995 and applied for leave on medical grounds intimating the 4th respondent that he would produce medical certificate at the time of rejoining duty. Then, the petitioner went to Madras for treatment and hospitalized for a long time. From Madras, he addressed letters to the 4th respondent seeking extension of medical leave. The 4th respondent sent a letter, dated 22.6.1995 directing the petitioner to join duty at the earliest, but unfortunately, he could not join duty. When he came to Hyderabad and reported to join duty, the 4th respondent intimated that his services were terminated. Therefore, he made a representation to the 4th respondent on 10.9.1997 requesting to consider his case

sympathetically and on humanitarian grounds and permit him to join duty, but he was not allowed to do so. The 4th respondent passed orders dated 18.9.1997 stating that the petitioner absconded from duty with effect from 1.6.1995 without applying for leave or permission. Therefore, the respondents have conducted enquiry into the matter and terminated his services. Aggrieved by the same, the petitioner filed an appeal before the appellate authority who also rejected his claim.

A detailed counter affidavit has been filed by the 4th respondent-college denying the allegations made by the petitioner. When enquiries were made by the college, the wife, sister and brother-in-law of the petitioner informed that the petitioner went to Madras for treatment. When the respondent requested them to furnish the address of the petitioner, some address was given and when a letter was sent to that address, it was returned unserved. Therefore, a regular enquiry was conducted and it was sent to both the petitioner's address in Hyderabad and his address in Madras. Since the petitioner was not available, it was returned unserved and the Enquiry Officer submitted a report holding that there was misconduct on the part of the petitioner, and final orders were passed removing the petitioner from service. In fact, in the enquiry, it came to light that the petitioner left for Riyadh in search of employment. From there, on 7.4.1997, he addressed a letter to the 4th respondent stating that his contract of service would come to an end by the end of June, 1997 and he would return from Riyadh in July, 1997 only. This letter was also taken into consideration by the appellate authority and confirmed the order of termination from service. Therefore, the order passed by the respondents terminating the services of the petitioner as approved by the appellate authority does not deserve any interference by this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel appearing on both sides and perused the records made available.

At the outset, it may be noticed that the petitioner left the employment in the 4th respondent-college without any intimation to them except sending some letters, which do not contain any address at all and during the course of enquiry; it was revealed that the petitioner left the country and got employment in Riyadh for sometime. This fact is not disputed by the counsel for the petitioner. Therefore, the respondents have conducted an enquiry as contemplated under the Rules and final order was passed by removing the petitioner from service which was approved by the appellate authority. Firstly, the petitioner, without intimating the 4th respondent-employer, left for Riyadh on the pretext that he was undergoing treatment in Madras and sought employment in Riyadh and without revealing this fact, he appealed for employment in the 4th respondent. Obtaining employment by the petitioner particularly in a foreign country without the prior permission of the 4th respondent or the authorities concerned as per the Act and Rules governing the service conditions is highly depricable. The conduct of the petitioner in obtaining unauthorized employment absenting himself from his duties does not inspire the confidence of this Court to show any sympathy requiring interference as to the orders passed by the disciplinary authority as well as the appellate authority in removing the petitioner from the services of the 4th respondent-college. The impugned proceedings as approved by the appellate authority are just and proper and do not suffer from any infirmities.

The writ petition is devoid of merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

(C.V. RAMULU, J.)

27th June, 2005

bcj

To

1 The Secretary, The State of A.P.,
Higher Education Department , Secretariat Buildings , Hyderabad.
2 The Commissioner of Collegiate Education,
Nampally, Hyderabad.
3 The Regional Joint Director, Higher Education Zone VII, Hyderabad.
4 The Correspondent, St.Francis College for Women,
Begumpet, Hyderabad.

5 Two C.Cs. to the government Pleader for Higher Education, High Court Buildings, Hyderabad (OUT).

6 Two C.D. copies

Note: Furnish copy in three days.

B/o.

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